

TEXAS DEPARTMENT OF TRANSPORTATION

TxDOT: Open For Business

COMPREHENSIVE DEVELOPMENT AGREEMENTS



The *New* Texas Roadmaps



Texas has some *big transportation challenges*, but we have *big plans* that are producing *big results*. The Texas Department of Transportation has three key publications that will not only keep you up to speed, they'll put you in the driver's seat.

TxDOT Has a Plan is our strategic vision,

TxDOT: Open for Business shows you how to build projects faster,

and

Keep Texas Moving is our free bimonthly e-newsletter that lets you know what's going on as it happens.

You can find all these publications and Keep Texas Moving subscription information at:

www.TxDOT.gov – keyword: Strategic Plan

www.TxDOT.gov – keyword: Open for Business

www.TxDOT.gov – keyword: Keep Texas Moving



Comprehensive Development Agreements (CDAs) are one of the ways in which the Texas Department of Transportation is proclaiming its status as “Open for Business,” and opening the door to private sector investments in our transportation system.

Our initiative, “TxDOT: Open for Business,” focuses on innovative financing as well as partnerships between the agency, local officials, and the private sector. It is a way to broaden the options available for solving the traffic congestion, safety and mobility issues that impact the quality of life for communities throughout the state.

As always, TxDOT will be there as a guide through the process of developing a CDA and acting as an advocate for communities interested in implementing transportation solutions.

Our Goals

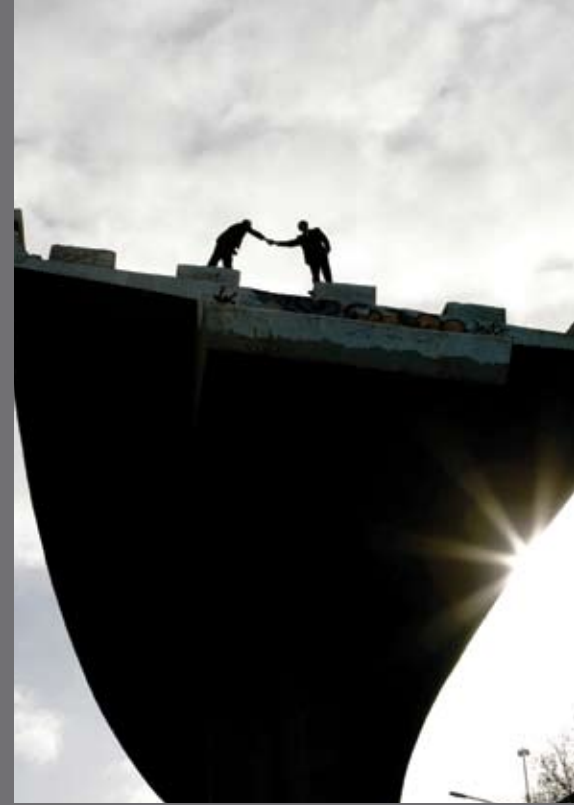
We have developed five well defined goals to help us achieve our mission and make it easy for the public to evaluate our effectiveness:

1. Reduce
congestion
2. Enhance
safety
3. Expand
economic opportunity
4. Improve
air quality
5. Increase
the value of transportation assets

WHAT IS A COMPREHENSIVE DEVELOPMENT AGREEMENT?

A CDA is a project delivery tool TxDOT or a Regional Mobility Authority can use to design, construct, rehabilitate, expand and improve a transportation facility. A CDA may also include finance, right of way acquisition, maintenance and/or operation of a transportation facility. A transportation facility eligible for a CDA is defined as:

- A toll road project
- A road or rail project, or combination of projects, on the Trans-Texas Corridor
- A state highway improvement project that includes both tolled and non-tolled lanes and may include non-tolled facilities
- A state highway improvement project in which a private entity has an interest
- A state highway improvement project financed wholly or partly with the proceeds of private activity bonds
- A rail facility or system
- A toll project combined with a rail project



The use of a CDA on SH 121 will ensure that the project is constructed years ahead of schedule, generate additional revenue for much needed projects such as IH 35E through Denton County, transfer maintenance and risk to the private sector and provide motorists with a choice as to whether or not they want to pay the toll, since we are also building an additional 6 non tolled lanes directly adjacent to SH 121.

Cynthia White
Denton County Commissioner, Pct. 1
Regional Transportation Council, Chair

CDA PROPOSAL PROCESS

There are two approaches to the CDA Proposal Process. Whether you start from an Unsolicited Proposal or a Solicited Proposal, all will be routed through the Proposal Evaluation Process. For Unsolicited Proposal, TxDOT has the ability to accept, reject or modify the proposal.

1. TxDOT issues request for qualification
2. Proposers submit proposal & qualifications statements
3. TxDOT shortlists proposers
4. TxDOT releases a draft request for detailed proposals (RFP)
5. Industry review including one-on-one meetings
6. TxDOT issues final RFP
7. Proposers submit final detailed proposals
8. TxDOT evaluates final detailed proposals
9. TxDOT recommends selection
10. Texas Transportation Commission selects apparent best value proposer
11. Negotiations
12. Award and execution of CDA





TYPES OF COMPREHENSIVE DEVELOPMENT AGREEMENTS

Generally, TxDOT uses three types of CDAs to develop projects: design/build, pre-development agreements and a concession agreement.

Design/Build CDA

Design/Build CDAs (which can include operations and maintenance) are used for well-defined projects in which:

- Environmental activities are typically complete
- Major regulatory approvals are in place
- Right of way requirements are finalized and acquisition is underway
- Project financial plan is final
- Funding is usually provided through public funds or a combination of sources, including toll revenue bonds

This type of CDA combines design and construction under a single contract, which shifts the risks from taxpayers to a private sector firm. The result is a greater price certainty with a lump sum price and a guaranteed delivery date. A design/build CDA also allows for many design and construction activities to occur concurrently; therefore, projects can be completed faster than with traditional and separate design and construction contracts.

PRE-DEVELOPMENT AGREEMENTS

With pre-development agreements, a consortium (a team of private sector firms) is responsible for the project's overall master development plan, master financial plan and facility implementation plan. In return, the consortium has the ability to negotiate with TxDOT to develop a certain amount of individual projects that are identified in the master development plan. A design/build or concession agreement may be utilized to deliver the individual projects with the consortium. Additionally, if requested by TxDOT, the consortium may assist with public information and environmental support services.

CONCESSION AGREEMENTS

For a concession agreement, the project scope is usually well-defined; however:

- A record of decision may or may not exist
 - Engineering/technical investigations may only be at the conceptual stage
 - Right of way acquisition may or may not be in process
 - The consortium provides financing (TxDOT may provide available public funds)
 - The consortium designs and builds the facility
 - The consortium operates and maintains the facility for a fixed number of years (the developer is given authorization to collect tolls)
- The contractual terms of a concession agreement may include:
- Significant financial compensation for granting the concession
 - A maximum 50-year concession period for Trans-Texas Corridor projects or up to 70 years for non-Trans-Texas Corridor projects if there are early termination provisions
 - Earn-out of maximum return on investment for material default or public convenience
 - Revenue sharing
 - There is no guaranteed return for developer
 - Risk transfer from public to developer



SELECTION/PROCUREMENT

The selection process for a CDA is a two-step competitive process that is initiated by an unsolicited proposal or solicited proposals submitted at TxDOT's request.

In both cases, the selection process first begins with conceptual proposals. These proposals are evaluated based on their compatibility with regional and state transportation plans as well as a proposal's ability to support the department's goals. If the Texas Transportation Commission concludes the conceptual proposals are viable, it will make an official request for detailed proposals, which is the second step in the competitive selection process.

In step two, the detailed proposals go through a thorough evaluation process to identify the proposal that offers the public the best value.

CDA procurement follows Chapters 91, 223 and 227 of the Texas Transportation Code; Title 43 - Sections 27.1-27.5 of the Texas Administrative Code; Texas House Bill 2702; US Code Title 23 and Federal Highway Administration/SEP-15 Rules.

PROJECT OVERSIGHT

TxDOT may provide project oversight or retain a consultant (or several consultants) to oversee a project as an extension of TxDOT staff. Project oversight facilitates effective coordination with TxDOT and local transportation agencies. The oversight team facilitates procurement, construction and operation of a new toll road and may also provide independent quality verification for design and construction.

PROJECT COMPLETION

Under a design/build CDA, the contract is fulfilled after construction is completed. For a concession agreement, the project is completed at the end of the concession period (or earlier if there are early termination provisions) in accordance with TxDOT handback standards. At handover, TxDOT decides how to operate and maintain the facility either by TxDOT staff or outsourcing the operation and maintenance of the facility.

GLOSSARY

Close Out & Warranty (Handback Standards)

Required conditions for transportation facility handover from a developer/concessionaire to TxDOT at the end of a Comprehensive Development Agreement.

Comprehensive Development Agreement (CDA)

Legal contracting tool TxDOT can use to develop, design, construct, operate, maintain and finance a transportation facility.

Concession Agreement

A CDA contract awarded to a concessionaire to design, build, operate, maintain and finance a transportation facility for a set number of years.

Concessionaire

Organization (company or group of companies) contracting with TxDOT through a concession CDA to design, build, operate, maintain and finance a transportation facility.

Design/Build CDA

A CDA through which design and construction (can include operations and maintenance) of a project are performed under one contract.

Maximum Return

Maximum net profit a developer/concessionaire can make through a CDA.

Private Activity Bond

Tax-exempt bonds issued by or on behalf of local or state governments to provide special financing benefits for qualified projects. These bonds are used to attract private investment for projects having some public benefit; the government generally does not pledge its credit. This type of bond results in reduced financing costs because of the federal tax exemption (per Section 141, Internal Revenue Code).

Risks & Rewards

Terms used to describe who (TxDOT, developer/concessionaire or other agencies) accepts the responsibilities (risk) and the

benefits they gain (rewards) in return for assuming those risks within the terms of procurement contracts.

Solicited Proposal

TxDOT issues a request for competing proposals and qualifications to potential developers/concessionaires for a transportation facility.

Special Experimental Project-15 (SEP-15)

An experimental process used by the FHWA to identify, for trial evaluation, new public-private partnership approaches to delivering transportation projects.

Toll Operations

Processes and procedures for collecting tolls on a transportation facility.

Unsolicited Proposal

A proposal submitted to TxDOT by a potential developer/concessionaire for a transportation facility for which TxDOT has not requested proposals/bids.



HOW TO GET STARTED

TxDOT is "Open for Business" and we're ready to help you improve traffic flow and safety in your community. The first call you make is to Phillip Russell. You'll work in concert with him and with the TxDOT professionals in your area who know about these mobility tools and will be your partners in this process.

We want to thank you for your interest and commitment to improving the transportation network in your community and the entire Lone Star State.

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